

REMARKS

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The Applicants appreciate the Examiner's thorough examination of the subject application. Applicants' attorney wishes to thank Examiner Gucker for the opportunity to discuss the merits of the present application during a telephonic interview on April 8, 2004. An Interview Summary was made of record by Examiner Gucker in the paper mailed on April 13, 2004 (please see attached). Applicants request reconsideration of the subject application based on the amendments to the claims and the following remarks.

Claims 1 and 3-8 were rejected under 35 U.S.C. 102(b) as being anticipated by Gizurarson et al. (US 5,942,237). The Examiner states that "Gizurarson teaches methods employing diphtheria toxoid given intranasally to mammals with adjuvants as initial immunizations and booster vaccinations..... Adminsitration to humans is contemplated, along with the optional use of propellant."

As agreed in the telephonic interview of April 8, 2004, claim 1 has been amended to include the phrase "administering to a mammal in need of such treatment" to amend around the Gizurarson reference.

Claims 1, 3-5 and 7-8 were rejected under 35 U.S.C. 102(e) as being anticipated by Jensen (US 2002/0187157 A1). The Examiner states that " Jensen teaches the use of diphtheria toxoid conjugated to amyloid to induce amyloid downregulation to treat Alzheimer's disease, a neuro degenerative disease. Jensen also teaches adjuvants, boosters, and injections or oral administration."

As agreed in the telephonic interview of April 8, 2004, claim 5 has been amended to read as "composition consisting of diphtheria toxoid and a pharmaceutically acceptable carrier" to amend around the Jensen reference.

For each and all of the foregoing reasons and in view of the foregoing remarks, it is believed that Claims 1 and 3-8 are in condition for allowance. Favorable reconsideration and allowance of this application, therefore, is respectfully requested in response to this communication.

C. Merrill and H. Ghanbari
U.S.S.N. 09/816,289

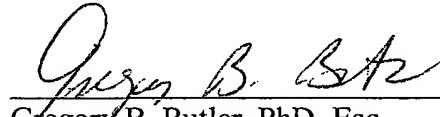
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Applicants believe that additional fees beyond those required for the Petition for Extension of Time are not required to complete the filing requirements for the subject application or otherwise in connection with this submission. However, if a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge/credit Deposit Account No. **04-1105**

Respectfully submitted,

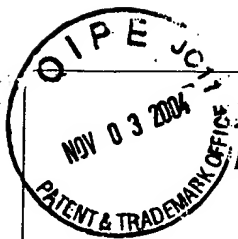
Date: May 3, 2004

By:



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Interview Summary

Application No.

09/816,289

Applicant(s)

MERRIL ET AL.

Examiner

Stephen Gucker

Art Unit

1647

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All participants (applicant, applicant's representative, PTO personnel):

(1) Stephen Gucker.

(3) _____

(2) Greg Butler.

(4) _____

Date of Interview: 08 April 2004.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____

Claim(s) discussed: 1 and 3-8.

Identification of prior art discussed: Jensen et al. and Gizurarson et al.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Gizurarson et al. could be amended around by including the phrase "administering to a mammal in need of such treatment" in claim 1. Jensen et al. could be amended around by amending claim 5 to read, for instance, "composition consisting of diphtheria toxoid and a pharmaceutically acceptable carrier" as long as the specification has support for such amendments.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Gary D. Kunz

**GARY KUNZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600**

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Stephen Gucker
Examiner's signature, if required